S.B.CIVIL WRIT PETITION 2347/2002
(Ganpat Dan v. The State of Rajasthan & Others).

DATE OF ORDER: FEBRUARY 10, 2005

HON'BLE MR. JUSTICE R.P.VYAS

Mr.G.K.Vyas, for Petitioner.
Mr.O.P.Boob, Additional Government Advocate, for the State of Rajasthan.

By the instant petition, Ganpat Ram – petitioner seeks to quash the order dated March 14, 2001 (Annexure 4) passed by the Deputy Conservator of Forests, Pali.The petitioner also seeks a direction to the respondents to take him back in service and grant all the consequential benefits.

Brief facts giving rise to the instant petition are that the petitioner was initially appointed as Forester on March 28, 1979. On March 13, 2001, he was working as Forester in the Office of the Deputy Chief Conservator of Forests, Pali. Due to long ailment and unavoidable circumstances, the petitioner submitted an application dated March 13, 2001 (Annexure 1) for voluntary retirement w.e.f. May 31, 2001.

It is averred in the instant petition that when the ailment of the petitioner improved and he became fit mentally and physically, he submitted another application dated March 20, 2001 (Annexure 2) ,requesting therein that he wants to withdraw the earlier application March 13, 2001 (Annexure 1) of voluntary retirement and he wants to continue in service.

Thereafter, the petitioner received a letter dated April 12, 2001 (Annexure 3) from the Deputy Chief Conservator of Forests, Pali, in which it was stated that as the petitioner had moved an application dated March 13, 2001, seeking voluntary retirement w.e.f. May 31, 2001, which was considered and after due consideration, vide Office Order No.1050-54 dated March 14, 2001, his

application, seeking voluntary retirement w.e.f. May 31, 2001, has been accepted..

It was also stated in the letter to the petitioner that he had made another application dated March 20, 2001 mentioning therein that due to domestic circumstances and imbalance state of mental condition, he had sought voluntary retirement w.e.f. May 31, 2001 and, in support of that, a column of the newspaper cutting was also submitted. Therefore, the petitioner was asked by the Deputy Chief Conservator of Forest, Pali to clarify whether he (the petitioner) had sought voluntary retirement for contesting the election or as mentioned by the petitioner in his notice that he was suffering from the disease of Parapligia so whether, he (the petitioner) had recovered from the said disease. If so, then the petitioner was required to appear personally before the Officer concerned along with the documentary proof of his (concerned-authority's) satisfaction.

It is submitted by the learned counsel for the petitioner that it is very strange that this letter was issued to the petitioner on April 12, 2001 and as per this letter, the application for voluntary retirement was accepted on the very next date, i.e., March 14, 2001 w.e.f. 31st May, 2001, whereas the petitioner had sought the voluntary retirement which would be effective from May 31, 2001 and, prior to this date (May 31, 2001), he had already submitted the application for withdrawal of the request of voluntary retirement and hence, there was no occasion for the Deputy Chief Conservator of Forests to ask the petitioner as to whether he was going to contest any election. He was also asked to file the medical certificates.

When an employee has submitted the application for voluntary retirement and before it becomes effective, if he has submitted another application for

withdrawal, then, no such order retiring the petitioner voluntarily could be passed by the Authority concerned with prospective effect.

It is further submitted by the learned counsel that on March 20, 2001, the petitioner has submitted the application for withdrawing the request of voluntary retirement, but, prior to this date, an office order dated March 14, 2001 (Annexure 4) was issued, whereby, it was ordered that the application of voluntary retirement of the petitioner (w.e.f. May 31,2002) has been accepted .

It is also submitted by the learned counsel that the petitioner has been repeatedly knocking at the doors of the Department that he had already submitted the application for withdrawing the request of voluntary retirement, but, unfortunately, no attention was paid by the Department and he was relieved with prospective effect, i.e w.e.f. May 31, 2001, knowing it well that he had already submitted the application withdrawing the request of voluntary retirement. It is also alleged that the petitioner was harassed by the Deputy Conservator of Forests during his service tenure.

In support of his contention, learned counsel for the petitioner has relied on the cases of Shambhu Murari Sinha v. Project & Development India & Another [(2000) 5 SCC 621], Suresh Chandra Jain v. Central Bank of India & Others (S.B.Civil Writ Petition No.2526/2001, decided on March 19, 2002), Smt.Bhagwant Kanwar & Others v. The State of Rajasthan & Others (S.B.Civil Writ Petition No.961/96, decided on 7.3.2002) and Dhani Ram v. State of Rajasthan & Others (S.B.Civil Writ Petition No.1287/2001, decided on 2.12.2002).

It is submitted by Mr.O.P.Boob, learned Additional Government Advocate, for the respondents that the petitioner has filed the application dated March 13, 2001 for seeking voluntary retirement w.e.f. May 31, 2001. In the said application, the petitioner has stated that he is suffering from Parapligia caused by his sudden fall down. However, it is submitted that the petitioner was suffering from the said disease since very long time. The facts as stated by the petitioner in his application (Annex.1) that Parapligia disease was caused to him only about the period of filing of the said application, is not correct.

It is further submitted by the learned counsel for the respondents that the petitioner has stated in his application that on account of some problem in his family, his mental state was disturbed and he had submitted the application dated March 13, 2001 for voluntary retirement w.e.f. May 31, 2001. It is admitted by the respondents that the petitioner wanted to withdraw the voluntary retirement application prior to its acceptance by the Authority concerned.

It is also submitted that the Deputy Conservator of Forest, Pali vide his Office Order dated April 12, 2001 (Annexure 3) with reference to the application of the petitioner dated March 20, 2001 (Annexure 2) has sought clarifications that in the letter (Annex.2), the petitioner has stated that due to the problem of his house-holds and the disturbance of mental state, he had desired to seek voluntary retirement by his application dated March 13, 2001, but in the application (Annex.1), the petitioner sought voluntary retirement on the ground of suffering from the disease of Parapligia, therefore, the petitioner was asked to make clarification about the correct reasons for seeking voluntary retirement and further

to inform the Department whether he has completely recovered from the disease of Parapligia and if so, then he should personally appear before the said Authority and satisfy him by producing certificate of fitness. It is submitted that the order dated March 14, 2001 (Annexure 4) was just and proper order and the same was passed in pursuance of the application of the petitioner for seeking voluntary retirement w.e.f. May 31, 2001. It is submitted by the learned counsel for the respondents that vide Annexure 3, the petitioner was asked to furnish the correct reasons for seeking voluntary retirement because the stand of the petitioner for seeking voluntary retirement and for withdrawal of the said retirement were different, therefore, the clarification was sought from the petitioner.

It may be mentioned that the petitioner was surprised and shocked to receive letter No.1420 dated April 12, 2001 from the respondent, in which it was mentioned that the application of the petitioner for voluntary retirement has been accepted on March 14, 2001 itself and order to this effect has been issued. Thus,in fact, for the first time, on April 12, 2001, petitioner came to know about the Office Order No.F.( ) Karmik-1 dated nil, endorsement No.1050-54/14.3.2001, giving him voluntary retirement from the afternoon of May 31, 2001 under Rule 244 (1) of the Rajasthan Service Rules and Rule 50 (1) of the Pension Service Rules, 1996, when he received letter No.1420 dated April 12, 2001 from the Deputy Conservator of Forests, Pali, as the aforesaid office order, according to the petitioner, was received by him with the aforesaid letter.

Lastly, it is submitted by the learned counsel for the petitioner that vide Annexure 5, the petitioner made a detailed representation to the Deputy Conservator of Forests, Pali, on May 24, 2001, mentioning his all the grievances,

but the same has not still been considered and decided by the concerned-Authority.

Heard learned counsel for the parties.

It will be relevant to reproduce Rule 244 (1) of the Rajasthan Service Rules, 1951 and amended Rule 50 (1) of the Pension Rules, 1996, which read as under :-

> "Rule 244 (1) Optional Retirement on Completion of 20 years qualifying service.- (a) A Government servant may, after giving at least 3 month's previous notice in writing to the Appointing Authority, retire from service on the date on whichhe completes 20 years of qualifying service or attains the age of 45 years whichever is earlier or any date thereafter to be specified in the notice:
>
> Provided that it shall be open to the Appointing Authority to with-hold permission to retire a Government servant :
>
> (i) who is under suspension;
> (ii)in whose case disciplinary proceedings are pending or contemplated for the imposition of a major penalty and the disciplinary authority having regard to the circumstances of the case is of the view that such disciplinary proceedings might result in imposition of the penalty of removal or dismissal from service;
> (iii)in whose case prosecution is contemplated or may have been launched in a court of law;
>
> (b) A Government servant who has given notice for seeking retirement
> under clause (a) of this sub-rule, may presume acceptance of the notice of retirement and the retirement shall be effective in terms of the notice automatically unless an order in writing to the contrary has been issued by the Competent Authority and served upon the Government servant before the expiry of the period of the notice.
>
> (c)If a Government servant seeks retirement under this sub-rule while he is on leave not due, without returning to duty, the retirement shall take effect from the date of commencement of the leave not due and the leave salary paid in respect of such leave shall be recovered from him.
>
> (d)A Government servant who seeks voluntary retirement under clause (a) of this sub-rule shall be entitled to a weightage of a 5 years qualifying service which shall be given as an addition to the qualifying service actually rendered by him. The grant of

weightage upto 5 years shall, however, be subject to the following conditions :-

In respect of Government servants governed by pension rules :-

(i) .....

(ii).....

(iii).....

(iv).....

(v).....

(vi).....

(e) A Government servant who gives notice of voluntary retirement under clause (a) of sub-rule (1) shall satisfy himself by means of a reference to the appointing authority who is competent to retire him to the effect that he has, in fact, completed 20 years qualifying services for pension.

(f) A Government servant may, with the approval of the Appointing Authority, withdraw the notice given under clause (a) of the sub-rule provided the request for such withdrawal is made before the expiry of the notice.

(g) The authority competent to retire a Government servant may, in deserving cases, accept the notice contemplated under clause (a) of this sub-rule for a period of less than 3 months with the concurrence of the Government in the Finance Department."

Rule 50. Retirement on completion of 15 years' qualifying Service

(1)At any time after a Government servant has completed fifteen years qualifying service, he may, by giving notice or not less than three months in writing to the appointing authority, retire from service.

A bare reading of old Rule 244 (1) of the Rajasthan Service Rules and amended Rule 50 (1) of the Pension Rules shows that there is no statutory provision that if the petitioner has given 3 months' notice in writing expressing his

desire to give voluntary retirement from service, then, subsequently, i.e., within a period of three months, he cannot withdraw the notice for voluntary retirement. Apart from that, as mentioned in clause (f) of Rule 244 (1), a Government servant may withdraw the notice given under clause (a) of sub-rule (1), provided the request for such withdrawal is made before the expiry of the period of the notice. However, it puts a rider that the notice can be withdrawn with the approval of the Appointing Authority.

In the instant case, the petitioner submitted an application on March 13, 2001 for voluntary retirement w.e.f. May 31, 2001. Thus, the voluntary retirement was to be effective from May 31, 2001 and the relations of master and servant will come to an end from May 31, 2001. Then, by a subsequent application dated March 20, 2001, he withdrew the request /notice for voluntary retirement given on March 13, 2001. But, the Department-respondent, on the very next date, i.e., March 14, 2001, considered his application for voluntary retirement and passed the order on the same date, i.e., March 14, 2001, but he (the petitioner) was communicated by the Department-respondent on April 12, 2001 vide Annex.3 that his application, seeking voluntary retirement w.e.f. May 31, 2001 has been considered and vide Office Order dated March 14, 2001, he has been given retirement from Government service from the afternoon of May 31, 2001.

The issue involved herein is no more res integra and it has been considered by their Lordships of the Supreme Court in a catena of judgments, particularly in Shambhu Murari Sinha's case (Supra) that the withdrawal of application for voluntary retirement is very much permissible in law before its effective date and the appellant shall be entitled to continue in service with all consequential benefits, as the rights of voluntary retirement and compulsory retirement are corresponding rights and, in the case of voluntary retirement, the employee can

very well exercise his option of withdrawing the application for voluntary retirement before the effective date.

In Jai Ram v. Union of India & Others (AIR 1954 SC 584), their Lordships of the Supreme Court has considered the case of voluntary (self-seeking) retirement of an employee under the Fundamental Rules and held as under :-

> " It may be conceded that it is open to a servant, who has expressed a desire to retire from service and applied to his superior officer to give him the requisite permission to change his mind subsequently and ask for cancellation of the permission thus obtained; but he can be allowed to do so as long as he continues in service and not after he has been retired."

The Hon'ble Supreme Court further held that there may be some executive instructions dealing with the subject, having no statutory force, but eh same cannot come to the rescue of either side in such a case.

The Constitution Bench of the Hon'ble Supreme Court, in Union of India v. Gopal Chandra Misra & Others (AIR 1978 SC 649), dealt with the case of resignation by a sitting Judge of the Allahabad High Court to become effective from a future date. The majority view reads as under :-

> " It will be a repetition that the general principle is that in the absence of a legal, contractual or constitutional bar, a prospective resignation can be withdrawn at any time before it becomes effective, and it becomes effective when it operates to terminate the employment or the office tenure before such date and the Judge can, at any time before arrival of prospective date on which it was intended to be effective, withdraw it, because the Constitution does not bar such withdrawal."

In Central Inland Water Transport Corporation Ltd. v. Brojonath Ganguli (AIR 1986 SC 1571), the Hon'ble Supreme Court observed that if an employee is not permitted by terms of his contract of employment to determine the relationship of master and servant, such as employment may tantamount to

practising bonded labour. The Court further held that in certain circumstances, the employer may be justified in not accepting the request for voluntary retirement if the employee wants to leave in middle of the work which is of an urgent nature or very important and for the completion of which his participation is necessary. The request for voluntary retirement may also not be accepted if an employee wants to escape the consequences of an adverse finding against him in a domestic enquiry.

In Balram Gupta v. Union of India & Another (AIR 1987 SC 2354) , the Hon'ble Supreme Court considered the case where rules required that withdrawal of voluntary retirement may be subject to the approval of the Authority. The Court also considered the guidelines, on the basis of which the Competent Authority could consider the application for withdrawal which, inter alia, contained condition that there must be a material change in the circumstances, in consideration of which a notice was originally given. The Court held that in ordinary circumstances, there should be no embargo on employee's choice or freedom not to continue in employment. "If, however, the administration had made arrangement acting on his letter of voluntary retirement to make other employee available for his job, that would be another matter, but the employee's offer to retire or withdraw" should not be in quick succession. The withdrawal should not adversely affect the administrative set-up or tis arrangement. The Court further observed as under :-

> "In the modern and uncertain age, it is very difficulty to arrange one's future with any amount of certainty, a certain amount of flexibility is required, and if such flexibility does not jeopardise the Government or Administration, administration should be graceful enough to respond and acknowledge flexibility of human mind and attitude and allow the appellant to withdraw his letter of retirement."

The Court pointed out that the request for voluntary retirement may be with immediate effect or may be prospective in nature, i.e. to be operative from a future date.

In Power Finance Corporation Ltd. v. Parmod Kumar Bhatia, (1997) 4 SCC 280, the voluntary retirement of the employee was a conditional one and he himself understood that unless he was relieved of the duties after payment of outstanding dues, the voluntary retirement would not be effective. The Court held that as the employee rightly understood that unless he was relieved of the duty of the post after payment of outstanding dues, the order accepting his voluntary retirement did not become effective. However, their Lordships of the Supreme Court observed as under :-

> " It is now settled legal position that unless employee is relieved of the duty, jural relationship of the employee and employer does not come to an end. Since the order accepting the voluntary retirement was a conditional one, the condition ought to have been complied with. Before the condition could be complied with, the appellant withdraw the scheme. Consequently, the order accepting voluntary retirement did not become effective, therefore, no vested right has been created in favour of respondent."

In J.N.Srivastava v. Union of India & Another (AIR 1999 SC 1571) , the Hon'ble Supreme Court again considered the prospective date of resignation tendered on 31.10.89 to come into effect on 31.1.90 and withdrawn on 2.11.89. Then the Court held that it was a prospective date of resignation and it could be withdrawn prior to the date of its being effective.

Similarly, in Union of India v. Wing Commander T.Parthasarthy (2001) 1 SCC 158, the Court considered the case of a prospective date of resignation as 31.7.85, which was to be effective from 31.8.86, but was withdrawn on 19.2.86.

The withdrawal application was rejected on the ground that under the existing policy, there was no scope of withdrawal. The Court reiterated the law that a prospective resignation becomes effective from the date given by the employee and it can be withdrawn prior to the date of its commencement into effect. The Court further held that the right to withdraw cannot be curtained by Executive Instructions or Policy Decision and unless there are statutory rules prohibiting such withdrawal, the right of an employee to withdraw is not acceptable. In this connection, the Court observed as under :-

> " The reliance placed upon the so-called policy decision which obligated the respondent to furnish a certificate to the extent that he was fully aware of the fact that he cannot later on seek for cancellation of the application once made for premature retirement cannot, in our view, be destructive or the right of the respondent, in law, to withdraw his request for premature retirement before it ever becomes operative and effective and effected termination of his status and relation with the department. When the legal position is that much clear, it would be futile for the appellants to base their rights on some policy decision of the department or a mere certificate of the respondent being aware of a particular position which has no sanctity or basis in law to destroy such rights which otherwise inhered in him and available in law. No such deprivation of a substantive right of a person can be denied except on the basis of any statutory provision or rule or regulation. There being none brought to our notice in this case, the claim of the appellants cannot be countenanced in our hands. Even that apart, the reasoning of the High Court that the case of the respondent will not be covered by the type or nature of the mischief sought to be curbed by the so-called policy decision also cannot be said to suffer any conformity in law, to warrant our interference."

The law on the issue can be summarised that an employee has a right to seek premature retirement, however, subject to the Statutory provisions, if any, governing the same. The voluntary retirement may be sought with immediate effect/earliest possible time or prospectively, i.e., to be effective from a future

date. Intention of the employee seeking retirement is of paramount importance. Acceptance of the application for retirement is to be considered as per the law applicable, if any, otherwise also it would depend whether it requires acceptance at all. It is significant to mention that the employer does not have a right to prepone the date of effectiveness of voluntary retirement as it is in the sole discretion of the employee as to from which he wants to take voluntary retirement. In case of a prospective date of voluntary retirement, the employee has a right to withdraw the same prior to the date the voluntary retirement becomes effective .

In absence of any Statutory Rule, the respondents were not competent to take away the substantive right of the petitioner to withdraw the application for vluntary retirement. The instant case stands fully covered by the judgment of the Hon'ble Supreme Court in Shambhu Murari Sinha's (Supra).

This Court, in a similar case in Bhdh Ram Yadav v. Bank of India (2001 (UC) 95), has taken a view that if a person applied for voluntary retirement and withdraw the same before the date of acceptance, the condition laid down by the bank putting a bar on the withdrawal, was illegal and arbitrary. The aforesaid judgment of Budh Ram Yadav's case (Supra) has been affirmed by the Division Bench of this Court in Bank of India v. Budh Ram Yadav, DBCSA No.79/2001, decided on 29.3.2001.

Similarly, in Smt. Bhagwat Kanwar & Others v. State of Rajasthan & Others (2002 (2) WLC (Raj.)662), it was laid down by this Court that where the voluntary retirement will have effect from a future date, it can be withdrawn at any time before that date and in absence of any contrary statutory provision or

rule, right to withdraw cannot be denied, merely on the basis of any policy decision of the Government.

In J.N.Srivastava v. Union of India and another (1998 (9) SCC 559), three months' notice for voluntary retirement was given on 3.10.1989, which was to come into effect from 31.1.1990. The Government accepted the notice on.2.11.1989 and, thereafter, the appellant made request for withdrawal of his notice vide letter dated 11.12.1989. Then, in such a situation, it was held by their Lordships of the Supreme Court that the withdrawal was permissible, because it was made before 31.1.1990. It was further held by their Lordships that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement. The appellant was, therefore, deemed to have been in continued service till his superannuation age.

Their Lordships of the Supreme Court observed as under :-

> "The short question is whether the appellant was entitled to withdraw his voluntary retirement notice of three months submitted by him on 3.10.1989 which was to come into effect from 31.1.1990. It is true that this proposal was accepted by the authorities on 2.11.1989. But thereafter before 31.1.1990 was reached, the appellant wrote a letter to withdraw his voluntary retirement proposal. This letter is dated 11.12.1989. The said request permitting him to withdraw the voluntary retirement proposal was not accepted by the respondents by communication dated 26.12.1989. The appellant, therefore, went to the Tribunal but the Tribunal gave him no relief and took the view that the voluntary retirement had come into force on 31.1.1990 and the appellant had given up the charge of the post as per his memo relinquishing the charge and consequently, he was estopped from withdrawing his voluntary retirement notice. In our view, the said reasoning of the Tribunal

cannot be sustained on the facts of the case. It is now well settled that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement. The said view has been taken by a Bench of this Court in the case of Balram Gupta v. Union of India. In view of the aforesaid decision of this Court, it cannot be said that the appellant had no locus standi to withdraw his proposal for voluntary retirement before 31.1.1990. It is to be noted that once the request for cancellation of voluntary retirement was rejected by the authority concerned on 26.12.1989 and when the retirement came into effect on 31.1.1990, the appellant had no choice but to give up the charge of the post to avoid unnecessary complications. He, however, appraoched the Tribunal with the main grievance centering round the rejection of his request for withdrawal of the voluntary retirement proposal. The Tribunal, therefore, following the decision of this Court ought to have granted him the relief. We accordingly, allow these appeals and set aside the orders of the Tribunal as well as the order of the authorities dated 26.12.1989 and directed the respondents to treat the appellant to have validly withdrawn his proposal for voluntary retirement with effect from 31.1.1990. The net result of this order is that the appellant will have to be treated to be in service till the date of his superannuation which is said to be somewhere in 1994 when he completed 58 years of age. The respondent-authorities will have to to make good to the appellant all monetary benefits by treating him to have continuously worked till the date of his actual superannuation in 1994. This entitles him to get all arrears of salary and other emoluments including increments and to get his pensionary benefits re-fixed accordingly. However, this will have to be subject to adjustment of any pension amount and other retirement benefits already paid to the appellant in the meantime upto to the date of his actual superannuation. It was submitted by the learned Senior Counsel for the respondent-authorities that no back salary should be allowed to the appellant as the appellant did not work and therefore, on the principle of "no work, no pay," this amount should not be given to the appellant. This submission of the learned Senior Counsel does not bear sanity as the appellant was always ready and willing to work but the respondents did not allow him to work after 31.1.1990. The respondents are directed to make available all the requisite monetary benefits to the appellant as per the present order within a period of 8 weeks on the receipt of copy of this order at their end. Office shall send the same to the respondents at the earliest".

Voluntary retirement is a statutory right of the employee and where the voluntary retirement is effective from a future date, it can be withdrawn ,at any time, before that date, as in the instant petition, the date of voluntary retirement was May 31, 2001. Apart from that, where the withdrawal of voluntary retirement was sought even prior to acceptance of the resignation, which was to be effective from a future date. Thus, in absence of any contrary statutory provision or rule, the right of the employee to withdraw the request for voluntary retirement cannot be denied by the Employer as the relation of master and servant remains in existence till the effective date of voluntary retirement. When the request for withdrawal of voluntary retirement has been made, prior to the proposed date of acceptance, i.e. May 31, 2001, then, in such a situation, the request must be accepted by the Authority.

From the facts stated above, it is amply clear that on March 13, 2001, the petitioner sought voluntary retirement w.e.f. May 31, 2001. Then, subsequently, on March 20, 2001, the petitioner sought withdrawal of the application for voluntary retirement. It may be mentioned that for all practical purposes, the effective date was May 31, 2001. In the meantime, as pointed out above, the respondent vide letter dated April 12, 2001 (Annex.3) informed the petitioner that Vide Order No.1050-54 dated March 14, 2001, his application for voluntary retirement has been accepted. Thus, it will be construed that it was a prospective voluntary retirement and it could very well be withdrawn prior to the date of its being effective. The effective date was May 31, 2001. In fact, the right of the employee to withdraw the application for voluntary retirement, prior to its acceptance, cannot be curtailed by the employer. In the absence of any Statutory

Rule, the respondents were not competent to take away the substantive right of the petitioner to withdraw the application for voluntary retirement. An employee can withdraw his application for voluntary retirement before the effective date. The effective date would necessarily be the date on which the proposed retirement takes effect. Meanwhile, the relation of master and servant subsist and does not come to an end.

In this view of the matter, the case of the petitioner stands squarely covered by the judgment of their Lordships of the Supreme Court in Shambhu Murari Sinha v. Project & Development India & Another (Civil Appeal No.2639/2000, decided on April 13, 2000). The impugned order dated March 14, 2001 (Annex.4) is hereby quashed and set aside. The petitioner shall be deemed to have been in continuous service of the respondents. He is also entitled to all consequential benefits.

In the result, the writ petition is allowed as indicated above.

There will be no order as to costs.

(R.P.VYAS),J.

Scd.